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PD

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
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09/177,711 10/23/98 ADAMS

M QNS96-02A2

EXAMINER

HM12/0207

JERRY F. JANSSEN  
WIEHLM LAW SERVICE, S.C.  
100 WEST LAWRENCE, THIRD FLOOR  
APPLETON WI 54911

MOE ZIE, M

ART UNIT

PAPER NUMBER

1617

DATE MAILED:

02/07/00

**Please find below and/or attached an Office communication concerning this application or proceeding.**

**Commissioner of Patents and Trademarks**

# Office Action Summary

Application No.  
09/177,711

Applicant(s)

Adams et al.

Examiner

M. MOEZE

Group Art Unit

1617



☐ Responsive to communication(s) filed on \_\_\_\_\_

☐ This action is **FINAL**.

☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

A shortened statutory period for response to this action is set to expire 1 month(s), or thirty days, whichever is longer, from the mailing date of this communication. Failure to respond within the period for response will cause the application to become abandoned. (35 U.S.C. § 133). Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

## Disposition of Claims

☒ Claim(s) 20-52 is/are pending in the application.

Of the above, claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

☐ Claim(s) \_\_\_\_\_ is/are allowed.

☐ Claim(s) \_\_\_\_\_ is/are rejected.

☐ Claim(s) \_\_\_\_\_ is/are objected to.

☒ Claims 20-52 are subject to restriction or election requirement.

## Application Papers

☐ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.

☐ The drawing(s) filed on \_\_\_\_\_ is/are objected to by the Examiner.

☐ The proposed drawing correction, filed on \_\_\_\_\_ is ☐ approved ☐ disapproved.

☐ The specification is objected to by the Examiner.

☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. § 119

☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).

☐ All ☐ Some\* ☐ None of the CERTIFIED copies of the priority documents have been

☐ received.

☐ received in Application No. (Series Code/Serial Number) \_\_\_\_\_

☐ received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\*Certified copies not received: \_\_\_\_\_

☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

## Attachment(s)

☐ Notice of References Cited, PTO-892

☐ Information Disclosure Statement(s), PTO-1449, Paper No(s). \_\_\_\_\_

☐ Interview Summary, PTO-413

☐ Notice of Draftsperson's Patent Drawing Review, PTO-948

☐ Notice of Informal Patent Application, PTO-152

--- SEE OFFICE ACTION ON THE FOLLOWING PAGES ---

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## DETAILED ACTION

### *Election/Restrictions*

Restriction is required under 35 U.S.C. 121 and 372.

This application contains the following inventions or groups of inventions which are not so linked as to form a single general inventive concept under PCT Rule 13.1.

In accordance with 37 CFR 1.499, applicant is required, in response to this action, to elect a single invention to which the claims must be restricted.

Group I, claim(s) 20-34, 41-44 and 52, drawn to methods of augmenting the actions of cAMP in one or more effector systems while reducing cAMP action in a nociceptive system.

Group II, claim(s) 35-40 and 45-51, drawn to methods of enhancing penile or clitoral erection.

The inventions listed as Groups I and II do not relate to a single general inventive concept under PCT Rule 13.1 because, under PCT Rule 13.2, they lack the same or corresponding special technical features for the following reasons: Group I claims are drawn to methods of augmenting the actions of cyclic nucleotides in any anatomical site while Group II claims are drawn to methods of treatment for enhancing penile or clitoral erections. Therefore, a single general inventive concept is lacking between the two groups.

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*Election of Species*

This application contains claims directed to more than one species of the generic invention. These species are deemed to lack unity of invention because they are not so linked as to form a single general inventive concept under PCT Rule 13.1.

The species are as follows:

a) For Group I- a specified agent which a) increases the level or augments the effect of cAMP and cGMP, e.g., glyceryl trinitrate, isosorbide dinitrate, PGE1, or VIP and b) specified anatomical sites, e.g., engorgeable genital tissue.

b) For Group II- a) a specified agent which increases the level or augments the effect of cAMP and cGMP, e.g., glyceryl trinitrate, isosorbide dinitrate, PGE1, or VIP.

Applicant is required, in reply to this action, to elect a single species to which the claims shall be restricted if no generic claim is finally held to be allowable. The reply must also identify the claims readable on the elected species, including any claims subsequently added. An argument that a claim is allowable or that all claims are generic is considered non-responsive unless accompanied by an election.

Upon the allowance of a generic claim, applicant will be entitled to consideration of claims to additional species which are written in dependent form or otherwise include all the limitations of an allowed generic claim as provided by 37 CFR 1.141. If claims are added after the election, applicant must indicate which are readable upon the elected species. MPEP § 809.02(a).

The following claim(s) are generic: 20-52.

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The species listed above do not relate to a single general inventive concept under PCT Rule 13.1 because, under PCT Rule 13.2, the species lack the same or corresponding special technical features for the following reasons: The species in set a) relate to the employment of compounds which may vary so greatly in structure as to lack any common central core. The species in set b) relate to the treatment of a wide array of anatomical sites or tissues and the various medical conditions associated with reduced cyclic nucleotide levels in each.

Applicant is advised that the reply to this requirement to be complete must include an election of the invention to be examined even though the requirement be traversed (37 CFR 1.143).

Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a petition under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(I).

Because the restriction requirement above is complex, a telephone call to applicant's agent to request an oral election was not made. See MPEP Sec. 812.01.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Examiner Moezie whose telephone number is (703) 308-4612. The examiner can normally be reached on Tuesday to Friday from 8:30 am to 6:00 pm. The examiner can also be reached on alternate Mondays.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Donald E. Adams, Ph.D., can be reached on (703) 308-1235. The fax phone number for the organization where this application or proceeding is assigned is (703) 308-4556.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1235.

  
MINNA MOEZIE  
PRIMARY EXAMINER

MOEZIE:mm

February 4, 2000